THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19185 of 1998

Dated:21.06.2007

Between
Suresh

.....Petitioner

and

1. The Divisional Security Commissioner
Railway Protection Force, South Central
Railway, Hubli and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19185 of 1998

ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in removing the petitioner from service *vide* proceedings dated 29.4.1993 as confirmed by the 2nd respondent *vide* proceedings dated 10.5.1994 and 3rd respondent *vide* proceedings dated 3.10.1997 as arbitrary, illegal and violative of Article 14 of the Constitution of India and consequently to direct reinstatement of the petitioner into service with all consequential and incidental benefits.

It appears that the petitioner was appointed as Railway Protection Force Constable in the respondent-South Central Railway and joined the service on

25.8.1985. It was his case that he belongs to ST category and to that effect he obtained a certificate in the year 1978 and produced the same at the time of his appointment. On the basis of the said certificate, he was considered as ST and appointed. While that being so, after more than four years, the respondents issued a notice dated 5.4.1989 instructing the petitioner to prove that the certificate produced by him was a genuine one, within 21 days from the date of receipt of the letter and if he fails to prove, it would be construed that the certificate was a fake one and his services would be terminated without further notice. Further, a reference has been received that the brother of the petitioner who is working as Assistant Sub Inspector belongs to Burud caste, which is an Other Caste. This was verified and found to be correct. The verification shows that the certificate of caste produced by the petitioner is not a genuine one. The petitioner stated that he belongs to ST community only. Thereafter, an enquiry was conducted into the genuineness of the caste certificate issued by the authority and a finding was recorded that the petitioner belongs to OC and not Hindu Medara and he was removed from service. Aggrieved by the same, the petitioner filed an appeal and further emergency petitions before the higher authorities and all of them were dismissed. Therefore, the present writ petition is filed.

Learned counsel for the respondents strenuously contended that the matters pertaining to fake caste certificates can be enquired into by the department and they have the power to do so, but in that regard the learned counsel failed to bring to the notice of the Court any provisions in the CCA Rules of RPF.

There is no necessity to go into all the details. The genuineness of a caste certificate cannot be taken up by the authorities on their own. The enquiry conducted by the disciplinary authority revealed that the brothers of the petitioner are OCs and the earlier circular which was issued by the Karnataka Government was later withdrawn. The certificate obtained by the petitioner was issued under the earlier circular issued by the Karnataka Government and since it was withdrawn that certificate is invalid. It is nowhere stated that the certificate obtained by the petitioner is not a genuine one. Certificate is genuine but the certificate showing that he is ST is not correct according to the management. As to whether the certificate issued by Tahsildar was genuine one or not; nothing prevented the authorities from

referring the same to the concerned Tahsildar office and asking the Tahsildar concerned to conduct a detailed enquiry into the matter and submit a report. No such course was adopted. In this case, the respondent authorities seems to have conducted some enquiry on their own as to the employment of the brothers of the petitioner and on that basis a finding was recorded that the petitioner does not belong to ST community. This is absolutely without any jurisdiction vested with the respondents. The respondents cannot enquire into the genuineness of a caste certificate issued by a Tahsildar. Therefore, the very enquiry conducted by the disciplinary authority and the findings recorded and the removal order passed are *ex-facie* arbitrary and illegal and are liable to be set aside.

Accordingly the removal order passed by the disciplinary authority, as confirmed by the appellate authority and further by the revisional authority, is set aside and the respondents are directed to reinstate the petitioner forthwith into service with all consequential benefits.

However, this order will not preclude the respondents from referring the matter to the appropriate authority for verification of the caste certificate produced by the petitioner at the time of his appointment and taking appropriate action as per law.

Writ petition is allowed accordingly. No costs.

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21-06-2007

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